

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
No. 3:11-CV-00310**

CAROLINA INTERNET, LTD,)
)
 Plaintiff,)
)
 vs.)
)
TW TELECOM HOLDINGS, INC,)
)
 Defendant,)

)

ORDER

THIS MATTER is before the Court on Plaintiff’s Motion for Reconsideration of the Court’s Order to Change Venue [D.I. 29, 30], Defendant’s Response [D.I. 32], and Plaintiff’s Reply [D.I. 33].

On July 25, 2011, this Court issued a written Order setting forth its decision to transfer this matter to the District of Colorado. [D.I. 21].

Rule 54(b) provides in part that “any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(b) (2009); *American Canoe Assoc., Inc. v. Murphy Farms, Inc.*, 326 F.3d 505, 514-15 (4th Cir. 2003) (distinguishing motions to reconsider a final judgment with motions to reconsider interlocutory orders and explaining that less stringent standard applies to the latter); *see also Moses H. Cone Mem. Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 12 (1983) (reconsideration is discretionary). Motions for reconsideration of an interlocutory order are appropriately granted upon (1) the discovery of new evidence, (2) an intervening development or change in the

controlling law, or (3) the need to correct a clear error or prevent manifest injustice. *See Pender v. Bank of America, Corp.*, 2011 WL 62115 (W.D.N.C. Jan. 7, 2011) (*internal citations omitted*); *Faris v. SFX Entm't, Inc.*, 2006 WL 3690632, *8 (W.D.N.C. Dec. 12, 2006) (“Reconsideration by re-argument is not proper under Rule 54.”).

Having reviewed the briefing submitted by both parties, the Court is not inclined to reconsider its earlier decision transferring this case to the District of Colorado. The Court’s previous decision does not amount to clear error or work any manifest injustice.

IT IS, THEREFORE, ORDERED that Plaintiff’s Motion for Reconsideration [D.I. 29, 30] of the Court’s July 25, 2011 Order [D.I. 21] is hereby **DENIED**.

SO ORDERED.

Signed: September 26, 2011

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

